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10/673,679	09/29/2003	Mark J. Pettay	PAT-008A	2036
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MICHELLE A. ZARINELLI C/O WEST CORPORATION 11808 MIRACLE HILLS DR. MAIL STOP: W11-LEGAL OMAHA, NE 68154				
EXAMINER YEN, ERIC L.				
ART UNIT PAPER NUMBER				
2626				
NOTIFICATION DATE DELIVERY MODE				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

MAZARINELLI@WEST.COM

# Office Action Summary

**Application No.**

10/673,679

**Applicant(s)**

PETTAY ET AL.

**Examiner**

ERIC YEN

**Art Unit**

2626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 5/24/10.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-63 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-63 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/CD)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Amendment***

1. In response to the Final Office Action mailed 2/26/10, applicant has submitted an amendment filed 5/24/10.

Claims 1, 23, 33, 60-63, have been amended. Claim 19 has been cancelled.

***Response to Arguments***

1. Applicant's arguments with respect to claims 1, 23, 33, 60, 61, 62, 63, have been considered but are moot in view of the new ground(s) of rejection.

***Claim Objections***

2. Claims 1, 62-63, are objected to because of the following informalities:

While there is no actual claim problem with claiming "panel level displacement stamp" since nothing else refers back to the displacement stamp, it is suggested that applicant amend this recitation in the independent claims to recite panel-level displacement stamp (i.e. adding a hyphen) for consistency with the other independent claims.

3. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 1-63 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The independent claims recite "wherein a confidence level threshold of the automatic speech recognition component is used to evaluate an accuracy OF AN OUTPUT OF A COMPARISON" while the Specification teaches evaluating the accuracy (i.e. correspondence with the script) of the panel-level segment.

As claimed this limitation is stating that the quality of the score is being evaluated (i.e. HOW WELL THE COMPARISON WAS SCORED not HOW CLOSELY MATCHED the panel-level segment and the script were).

While applicant's intent is fairly clear, as claimed the scope is something different from applicant's intent and this scope is not supported by the original Specification.

As per Claims 33 and 60-61, it is not clear if applicant meant that panel-level segments are matched with a corresponding portion of the first data. As claimed, since every panel-level segment is compared to the same thing to determine a match for the same thing, the only way to have a perfect match is to incessantly repeat the entire script several times to form panel-level segments equal to the entire script. There is only one first data being matched to several different entities, as claimed, and if the

different entities are substantively different in composition then they cannot, by definition all match the same first data.

Since applicant, at Specification 13 and 15, describes matching panel-level segments with corresponding portions of the script distinct each other, it cannot be the case that the panel-level segments are compared with the same thing (i.e. first data) as claimed, and therefore this limitation is not supported (i.e. "wherein each panel-level segments is compared with the first data"

Dependent claims are rejected for incorporating the same issues as their parent claims.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-63, are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As amended Claims 33, 60, and 61 are unclear for an antecedent basis issue because it recites "defining at least first data relating to evaluating compliance of at least one agent with the at least one script", "wherein each panel-level segment is compared with the first data", wherein a score is assigned to each panel-level segment indicating a match accuracy of the panel-level segment with the first data", and "the standard

defining a required score for THE panel-level segment to be declared as a match to the first data".

The remaining independent claims 1, 23, 62, and 63, recite "corresponding expected text" in place of "the first data", and so even though the other independent claims recite "the panel-level segment" (in "a match accuracy of the panel-level segment with the corresponding expected text"), there is a specific one of the panel-level segments that can be determined based on the corresponding expected text.

Unlike Claims 1, 23, 62, and 63, however, Claims 30, 60, and 61, have MULTIPLE panel-level segments corresponding to the SAME first data. This results in an ambiguity because "the standard defining a required score for the panel-level segment to be declared as a match to the first data" requires a specific one of the "each panel-level segment". It is impossible, as claimed, to determine which of these panel-level segments is being referred to by "the panel-level segment" because each and every one of them is being compared to the first data.

While it seems to be understood that applicant is trying to claim multiple standards (one for EACH of the panel-level segments' accuracy match with a corresponding portion of the first data) by using the claim language "wherein a score is assigned to each panel-level segment" (therefore, necessarily multiple scores), as claimed "wherein the score is evaluated" and "standard defining a required score for the panel-level segment" refers to an indefinite one of the multiple scores and an indefinite one of the multiple panel-level segments.

Also, it is not clear if applicant meant that panel-level segments are matched with a corresponding portion of the first data. As claimed, since every panel-level segment is compared to the same thing to determine a match for the same thing, the only way to have a perfect match is to incessantly repeat the entire script several times to form panel-level segments equal to the entire script. There is only one first data being matched to several different entities, as claimed, and if the different entities are substantively different in composition then they cannot, by definition all match the same first data.

Since applicant, at Specification 13 and 15, describes matching panel-level segments with corresponding portions of the script distinct each other, it cannot be the case that the panel-level segments are compared with the same thing (i.e. first data) as claimed.

As per Claims 1, 23, 62, and 63, there is less of an issue because there is only a one to one correspondence between each panel-level segment and its corresponding expected text, but as claimed there is still only one standard to which an indefinite one of the multiple scores is compared against, which leads to an ambiguity in the claims.

The interpretation of Claims 1, 23, 33, 60, 61, 62, 63, applied for prior art purposes, below, is as follows.

One panel-level segment is given a score indicating how well it matches with its corresponding expected text/portion of the first data.

That score is evaluated against a standard that is specific to that corresponding expected text/portion of the first data to determine a match between the one panel-level segment and its corresponding expected text/portion of the first data.

This is repeated for each and every other panel-level segment derived/divided from the voice interaction.

Dependent claims are rejected for incorporating the same issues as their parent claims.

***Allowable Subject Matter***

8. The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record does not teach varying standards for varying portions of the script being complied with (where there is one distinct standard for each portion), in combination with the remaining limitations of the independent claims.

Shambaugh et al. (US 6,970,821) teaches determining whether the at least one agent has adequately followed the at least one script ("compare the script presented to the selected agent with the recognized words... used by the agent", col. 6, lines 4-20), by dividing the voice interaction into viewable panel-level segments ("display an initial portion of the script", col. 3, lines 53-61; where a portion is put into the screen where the portion of the screen that the portion is displayed on is a "panel") and comparing the panel-level segments to the automatic speech recognition analyzed voice interaction



("compare the script presented to the selected agent with the recognized words... used by the agent", col. 6, lines 4-20)

applying a set of action rules to an output of the comparing to direct a quality assurance action to be taken, and wherein the action rules comprise a quality assurance action taken ("scripting system may extend the storyline", col. 5, lines 28-43; "detect any differences... incorporated into script... incorporate subtleties... parenthetical instructions", col. 6, lines 4-20; "objective", col. 6, lines 28-37; where a difference between the script and agent speech is an output of the comparing and also "if there is a difference and if the agent is successful, then add the difference to the script" and "if there is a difference to be added, determine corresponding parenthetical instructions" are rules applied to the difference/output to improve the odds that sales will be successful, which assures quality).

Yuschik (US 6,526,382) teaches wherein a panel-level time displacement stamp is assigned to each panel ("menu states... and timing for the flow of a dialogue", col. 5, line 61 – col. 6, line 12; "easy to understand... signal when it is time for the user to respond", col. 14, lines 1-13).

Young et al. (US 2003/0154072; continuation of 09/535,155, filed 3/24/2000, which incorporates the cited passages) suggests wherein the output can include a numerical score indicating a degree to which the at least one agent adequately followed the at least one script, and where the action taken is based on the numerical score ("score... that measures the correspondence of the agent's speech with the provided script", paragraph 37; "readability... overwhelm callers with technical jargon", paragraph

38; where the logical response to a script with overwhelming technical jargon is to modify it, as Shambaugh does)

And where the automatic speech recognition component has a confidence level threshold ("speech recognition system's confidence", paragraph 28; where it is at least obvious that if the system has low confidence in a recognition result that it is discarded instead of accepted, and the point at which the system determines that the result is acceptable is a threshold)

The prior art, while teaching compliance and scores, does not teach where there is a script-portion-specific standard for each portion of the script.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ERIC YEN whose telephone number is (571)272-4249. The examiner can normally be reached on M-F 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richemond Dorvil can be reached on 571-272-7602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EY 6/12/10  
/Eric Yen/  
Examiner, Art Unit 2626